

March 22 2006

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

FILED

ROGER (NMN) HAZEN,

Petitioner,

v.

VICTORIA FIORENTINO,

Respondent.

pr 06-0120

MAR 22 2006

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

ORDER

On March 9, 2006, Plaintiff Roger Hazen filed a *pro se* motion to remove Honorable Dorothy McCarter, District Judge, for cause pursuant to § 3-1-805, MCA, in Lewis and Clark County Cause No. ADR 2002-23.

Section 3-1-805(1)(b), MCA, provides that an affidavit of disqualification shall be accompanied by a certificate of counsel of record that the affidavit has been made in good faith. Such affidavit shall be deemed to not have been made in good faith if it is based solely on rulings in the case made by the challenged judge.

The affidavit in support filed by Hazen is based entirely upon rulings made in the case by the challenged judge and, therefore, is deemed not to have been made in good faith.

We determine that Hazen's motion does not establish personal bias.

IT IS THEREFORE ORDERED:

1. Pursuant to 3-1-805(1)(c), MCA, the affidavit of disqualification is set aside as void.
2. Hazen's motion to disqualify the district judge in Lewis and Clark County Cause No. ADR 2002-23 is denied.
3. The Clerk is directed to mail a true copy hereof to the Clerk of the District Court of Lewis and Clark County, Montana, for notification to counsel of record in Lewis and Clark County Cause No. ADR 2002-23 and to the Honorable Dorothy McCarter, District Judge.

DATED this 22nd day of March, 2006.

Karla M. Gray
Chief Justice

W. William Gephart

John Warner

Patricia Celter

Jim Rice
Justices